

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
BRAINTREE LABORATORIES, INC.,
Plaintiff,

-v-

CYPRESS PHARMACEUTICAL, INC.,
Defendant.
-----X

12 Civ. 6851 (AJN)

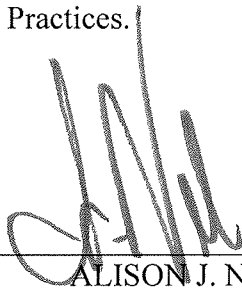
ORDER

ALISON J. NATHAN, District Judge:

The Court is in receipt of joint application for permission to file under seal portions of certain documents associated with Plaintiff's Opposition to Defendant's Motion for Summary Judgment. Although purportedly submitted pursuant to Rule 4.A of this Courts Individual Practices in Civil Procedure, the request fails to address *Lugosch v. Onondaga*, 435 F.3d 110 (2d Cir. 2006), as that Rule requires. The Court recognizes that, although Plaintiff submitted the letter and associated documents, Defendant made the request for the underlying materials to be filed in redacted form. This notwithstanding, under Rule 4.A, all redaction requests must address *Lugosch*, such that the Court can make a specific finding that "higher values necessitate a narrowly tailored sealing." 435 F.3d at 127. They parties are hereby ORDERED to resubmit their redaction request by August 14, 2013, taking care in this -- and all future communications -- to punctiliously adhere to the Court's Individual Practices.

SO ORDERED.

Dated: August 7, 2013
New York, New York



ALISON J. NATHAN
United States District Judge

WILMERHALE

August 2, 2013

John J. Regan

VIA ELECTRONIC MAIL

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Honorable Alison J. Nathan, U.S.D.J.
Thurgood Marshall United States Courthouse
40 Foley Square, Room 906
New York, New York 10007

Re: *Braintree Laboratories, Inc. v. Cypress Pharmaceutical, Inc.*
Case No. 12-cv-6851-AJN

Dear Judge Nathan:

This firm represents plaintiff Braintree Laboratories, Inc. ("Braintree") in the above-referenced action. I submit this letter on behalf of Braintree and defendant Cypress Pharmaceutical, Inc. ("Cypress").

Pursuant to Individual Practice 4.A, please accept this letter as a joint application for permission to file under seal designated portions of two documents cited in support of Braintree's Opposition to Cypress' Motion for Summary Judgment. After meeting and conferring, Cypress requested that portions of these documents be filed under seal. The documents are: (1) selections from Cypress' Abbreviated New Drug Application ("ANDA") (pages bearing Bates numbers CYPRESS000068, CYPRESS000205, CYPRESS000208, and CYPRESS000322); and (2) Braintree's Responsive Rule 56.1 statement, which cites information from Cypress' ANDA. Enclosed with this letter are:

- One full copy of the selections from Cypress' ANDA cited by Braintree in its Opposition, with the phrases or sentences to be redacted highlighted in yellow (attachment 1);
- One partial, loose leaf set, in original form, of solely those pages of the above selections from Cypress' ANDA on which the parties seek to redact material (attachment 2);
- One full copy of Braintree's Rule 56.1 Statement of Material Facts in Support of Braintree's Opposition to Cypress' Motion for Summary Judgment of Noninfringement, with the phrases or sentences to be redacted highlighted in yellow (attachment 3);
- One partial, loose leaf set, in original form, of solely those pages of Braintree's Rule 56.1 Statement of Material Facts in Support of Braintree's Opposition to

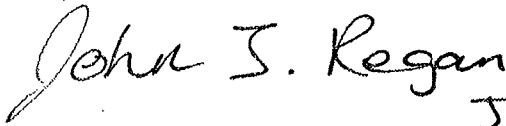
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Cypress' Motion for Summary Judgment of Noninfringement on which the parties seek to redact material (attachment 4).

Given Cypress' request that the highlighted portions of these documents be filed under seal, Braintree and Cypress respectfully request that the proposed redactions submitted herewith be filed under seal, and that only redacted copies be available on the public docket for this matter.

Respectfully submitted,


John J. Regan JCB

cc: All attorneys of record (via email)